



Regional Fire Service Delivery Study Request for Proposals

PROPOSALS MUST BE RECEIVED BY 4:00 PM
THURSDAY, AUGUST 19, 2010

The City of Pinole is seeking the services of qualified consultants to evaluate opportunities for regional cooperation, to include consideration of partial or complete consolidation of their Fire and Rescue Services. This evaluation is designed to determine the potential to achieve the following benefits to the jurisdiction:

- Increased efficiency.
- Improved effectiveness.
- Enhanced or expanded service(s).
- Reduced costs.
- Cost avoidance(s).
- Coordination of regional planning.
- Elimination of artificial boundaries.
- Standardization of services and programs.
- Potential reduced ISO rating.
- Enhancements to future state and federal grant funding.

I. BACKGROUND

The City of Pinole provides Fire and Emergency Medical Response service as an independent department, partnering with the surrounding agencies of Rodeo/Hercules Fire District and Contra Costa County Fire Protection District (Con Fire). This regional approach is coordinated through the automatic aid response managed by the Contra Costa County Dispatch function, and is commonly referred to as Battalion 7. Each participating agency provides resources to respond to calls for service, and each provides Battalion Chief coverage for 10-11 duty shifts per month. Each partner in Battalion 7 also provides two (2) Fire Stations, bringing the total Station count for the region to six (6). Each Station has one responding engine with three (3) fire suppression staff, including at least one Paramedic.

II. SCOPE OF WORK AND SCHEDULE

Evaluation should focus on the following:

- **Analysis of Current Situation**

The study will address the following questions:

1. Is a multi-jurisdictional approach feasible and appropriate in all areas or just for certain functions?
2. Which agencies would be best served by an alternate method of fire service delivery?
3. What issues or obstacles could affect the development of a more cooperative plan?
4. What options are available to achieve the optimal service delivery models?

The City of Pinole has a specific interest in studying the following options:

1. Stay as we currently operate (independent department).
2. Determine the feasibility of consolidation or a Joint Powers Agreement with Rodeo/Hercules Fire Protection District.
3. Determine the feasibility of consolidation or a Joint Powers Agreement with Contra Costa County Fire Protection District.
4. Determine the feasibility of a Joint Powers Agreement with Rodeo/Hercules Fire Protection District and Con Fire, to retain the service level provided by Battalion 7 and the auto aid system.
5. Enter into an agreement to share a station with Con Fire.
6. Look into other alternative staffing models.

● **Historical Data**

1. The final report shall briefly trace the development of fire, EMS, and rescue protection efforts of the fire & EMS departments (Career and Volunteer).
2. The report will develop an analysis of present resources available to meet emergency services requirements, including an inventory of both manpower and equipment and its distribution throughout the Battalion 7 service areas. The report needs to identify departmental strengths, weaknesses and differences, and provide recommendations to the City of Pinole management and governing body. The study shall identify areas of duplication, which may include, but not be limited to, the following:
 - A. Purchasing.
 - B. Supplies.
 - C. Training/training facilities.
 - D. Operational overlays.
 - E. Number and location of stations.
 - F. Number and type of apparatus, including special response units.
 - G. Communications and dispatch.
 - H. Staffing patterns.
 - I. Fire Prevention/Public Education.
 - J. Facility/equipment maintenance

• **Future Outlook/Financial Forecast**

The report will also:

1. Give a financial forecast for five years out regarding cost implications for each option being studied.
2. The financial capacity to provide long-term fire/EMS service delivery under each option.

• **Issues That Will Be Addressed**

1. The demographics of each Bat 7 agency's service area.
2. Calls for service for each Bat 7 agency.
3. Potential cost savings/cost avoidance, improved productivity and/or improved customer service and impact on ISO rating.
4. Existing versus future staffing requirements and the effect of consolidation/JPA on existing staffing levels.
5. Critical differences in existing policies, procedures, operating practices, and methods for resolving the differences.
6. Differences in current service level standards, methods for integrating service levels, and mechanisms to provide local customization of services within the existing jurisdictions.
7. The impact of a consolidation/JPA on any other agencies in service areas that presently receive fire protection from the agencies involved.
8. Differences in wage, benefits, retirement programs, OPEB obligations, and policies (total compensation including all employer costs) including cost implications, personnel policies, and methods for integrating the current compensation policies and benefits of the agencies, including a comparative matrix.
9. Procedural requirements to accomplish any potential consolidation/merger, including requisite timelines and impact on existing contractual fire protection agreements.
10. Identification of all existing financial obligations for each Bat 7 jurisdiction (i.e., fire station bonds, pension obligation bonds/unfunded liability, workers compensation costs/claims, general liability costs/claims).
11. Differences in rank and classification structure, compensation policies and personnel practices, organizational culture and the development of recommendations for addressing these issues.
12. Differences in operational policies, procedures and practices, and the development of recommendations and training needs for addressing these issues.
13. Process to establish the legal and management structure of the newly formed organization, respective agreements and contracts necessary to fully implement any potential consolidation/JPA.
14. Cost allocation assessment proposal developed by agencies' staffs.
15. Data and voice communications systems differences.
16. Integration of computer systems and technological resources.

17. Recommended solutions for securing administrative support services such as financial services (payroll, accounting, purchasing), telecommunications and information systems management, fleet maintenance, human resource management, employee relations, and legal services.
18. Assess the impact of a complete merger, or any specific consolidation/JPA, on the Volunteer Fire/EMS system and its personnel.
19. Recommendations for any additional funding sources not already being captured and identify impacts on existing and future funding streams based on consolidation/JPA or absence thereof.

In general, this effort will provide a realistic recommendation for the resolution of implementation issues and the associated financial implications.

• **Departmental Evaluations**

Objective No. 1: Organization Overview

An overview of the Battalion 7 organizations shall be developed outlining:

1. Responsibilities and lines of authority.
2. Chain of command.
3. Organizational structure.
4. General description of each fire/EMS agency.
5. Battalion 7 structure and operational functionality.

Objective No. 2: Planning For Fire and Emergency Medical Protection

The planning process shall be identified. Key components include:

1. Organizing for the planning process.
2. Review and evaluate the current planning process.
3. Identifying critical issues and analyzing current and future services.
4. Recommendations relative to future planning needs.

Objective No. 3: Analysis of Calls for Service

Calls for service shall be documented for each Battalion 7 agency for the most recent three calendar years. Key components include:

1. Breakdown of the types of calls.
2. Breakdown of call responses within each agency's jurisdiction.
3. Breakdown of call responses outside of each agency's jurisdiction based on automatic aid and mutual aid. Of particular interest are call responses within the Battalion 7 service area/agencies.

Objective No. 4: Personnel Management

The personnel management program shall be reviewed, focusing on:

1. Policies, rules, regulations, and operational guidelines.
2. Compensation and benefits.
3. Reports and records.
4. Disciplinary process.
5. Counseling services.
6. The application and recruitment process.
7. Testing, measuring, and promotions process.

8. Health and safety.

Objective No. 5: Staffing

Review the staffing levels of the Battalion 7 agencies. Areas to be considered include:

1. Administration and support staff.
2. Suppression staff.
3. EMS staffing.
4. Utilization of career and volunteer companies.
5. Responsibilities and activity levels of personnel.
6. Cultural diversity.

Objective No. 6: Labor Relations and Employee Bargaining Groups

Review the current situation with represented and unrepresented employees. Areas to be considered include:

1. Memorandum of Understanding and other labor agreements.
2. Volunteer firefighters.
3. Management employees (exempt and non-exempt).
4. Methods to address labor union representation issues (employees of all three Bat 7 agencies are represented by IAFF Local 1230).

Objective No. 7: Capital Improvement Plans

Identify current and future needs relative to the purchase of necessary capital improvement items including:

1. Fire stations, training facilities and other structures.
2. Apparatus.
3. Protective equipment (turnout gear).
4. Support equipment.
5. Methods of financing capital needs.

Objective No. 8: Suppression/EMS Delivery Systems

Review and make recommendations in areas specifically involved in or affecting service levels and performance. Areas to be reviewed shall include, but not necessarily be limited to:

1. Fire and rescue station locations.
2. Water supply.
3. Projected community development and growth.
4. Incident control and management.
5. Risk analysis.
6. Traffic patterns, congestion and calming measures.

Objective No. 9: Training Programs

Review and make overall recommendations in critical areas involving training. Items to be reviewed include:

1. General training competency.
2. Training administration.
3. Training schedule.
4. Training facilities.
5. Training program goals and objectives.

6. Training procedures manual.
7. Methodology utilized for training.
8. District operations and performance.
9. Record keeping.
10. Personnel to be trained.
11. Administrative priority.
12. Clerical support.

Objective No. 10: Fire Prevention Program

Review and make recommendations regarding the overall delivery and effectiveness of current and future fire prevention activities. Areas to be reviewed include:

1. Code enforcement.
2. New construction inspections and involvement.
3. Fire safety/education.
4. Fire investigation.
5. Statistical collection and analysis.

Objective No. 11: Facilities

Tour and make recommendations in areas critical of current station locations and future station considerations. Items to be contained in the report include:

1. Location.
2. Age, condition, serviceability.
3. Apparatus and equipment needs.
4. Traffic pattern.
5. Street grid networks.
6. Land use criteria.
7. Jurisdiction boundaries.
8. Future service demands.
9. Changing demographics.
10. Viability of volunteers.
11. Projected growth and trends.

Objective No. 12: Apparatus and Equipment

Review and make recommendations in areas critical to apparatus and equipment, as it relates to contributions toward consolidation/JPA. Items to be contained in the report include:

1. Age, condition, serviceability.
2. Replacement schedule
3. Distribution and deployment.
4. Regulation compliance.
5. Future needs.
6. Recommended additions to facilities, apparatus, and equipment.
7. Recommended reductions to apparatus and equipment.
8. Fire apparatus maintenance.

Objective No. 13: Loss Potential

Elements in the communities of significant risk and affecting suppression capabilities will be reviewed, including:

1. Risk analysis, including relationships between personnel, fire flows, equipment, training levels, capabilities, and response time.
2. Construction trends in the communities.
3. The presence or absence of automatic suppression and extinguishment systems.
4. Seismic and natural weather impact.
5. Potential for man-made disaster.

Objective No. 14: Contract Administration

Review and make recommendations relative to contracts with other agencies, to include:

1. Availability, strengths, and weaknesses.
2. Compensation (if applicable).
3. Alternatives to the agencies.

Objective No. 15: Fiscal Analysis

Review and analyze each department’s budget, including revenues, expenditures, reserve funds, and long-term debt to project future financial needs:

1. Review budget.
2. Financial controls.
3. Identify financial issues of consideration.
4. Identify possible areas of short and long-term savings and costs.
5. Identify appropriate financial contribution of each agency in the event of consolidation/JPA.
6. Identify each agency’s revenue source(s) and describe differences between agencies.

Objective No. 16: Plan of Implementation

A plan of implementation shall be developed as a product of the evaluation. This plan shall include:

1. Major projects.
2. Responsible parties.
3. Schedule for completion.
4. Method of evaluating results.

• **The preliminary project schedule is as follows:**

Issue Request for Proposal (RFP)	July 29, 2010
Deadline for inquiries	August 12, 2010
Proposals due	August 19, 2010
Negotiate a contract	By August 30, 2010
Award contact through City Council	September 7, 2010
Draft report submittal to City	November 15, 2010
Final report submittal to City	December 15, 2010

III PROPOSAL CONTENT

Each proposal submitted for this request should contain the following:

1. Understanding of Project:
 - a. Demonstrate an understanding of the project as it relates to the need for professional services.
2. Work Plan & Methodology:
 - a. A description of the work plan to complete the project and the methodology for achieving goals.
3. Project management:
 - a. Identify the project manager, team members, and their qualifications.
 - b. The customer retains the right to accept/reject proposed project manager.
4. Experience:
 - a. Provide a description of previous experience in providing similar services for similar clients.
 - b. Must have knowledge of California laws and regulations.
 - c. Must have experience in prior fire/EMS consolidation studies.
 - d. Must provide a list of references.
5. Price:
 - a. A project price structure must accompany the proposal detailing specific amounts for personnel services (salaries and fringes) and operations.
6. Project Timeline:
 - a. Must provide a proposed schedule for carrying out work plan.
7. Evaluation:
 - a. Provide a description of how successful completion of the project will be evaluated and demonstrated.
8. Client/Reference:
 - a. List the last ten customers consulted in the related field.
 - b. Of the last ten customers consulted, list the client actions taken as a result of the study versus the general recommendation made by the Consultant.

IV. FORM OF PROPOSAL

Proposals shall include the following:

- Scope of work to be included as an exhibit to the contract.
- Project Approach-
 - Project Schedule - Identify start date, milestones and completion date.
 - Description of how the data will be provided.
- Qualifications and experience of the key individual(s) assigned to this contract.
- Qualifications and experience of the firm with the scope of work.
- Reference contact names, agency, address, and phone number.
- Fixed fee proposal for the work, subtotaled by activity/option analysis with hours and rates. Fee shall be presented in a spreadsheet by the outline of required scope of work as listed above.
- The names of the Consultant's personnel who are to be involved, their titles, and hourly rates for their services.
- All other costs to be included in the contract.

The proposal and any questions regarding this request for proposals should be forwarded to the City of Pinole City Manager's Office at the following address:

Michelle Fitzer, Human Resources Director/Assistant to the City Manager
City of Pinole
2131 Pear Street
Pinole, CA 94564-1774
[mailto: mfitzer@ci.pinole.ca.us](mailto:mfitzer@ci.pinole.ca.us)

Questions raised and their answers will be shared with all firms.

V. EVALUATION PROCESS

Proposals will be evaluated on the following criteria:

1. Experience of key individual(s) assigned to the contract.
2. Experience of firm in performing this type of service.
3. Understanding of project as demonstrated by the thoroughness of the proposal, the introduction of innovative or cost-saving ideas, and approach.
4. References from clients for whom similar work was performed.
5. Project schedule and depth of staff available to perform services.
6. Estimate of resources necessary to perform services.
7. Total project cost.

VI. REQUIREMENTS OF THE SUCCESSFUL FIRM:

Contracting Guidelines

The firm shall be responsible for complying with the following contracting guidelines:

1. Consultant will furnish all equipment, materials and labor to complete the work by the agreed upon date.
2. Consultant shall obtain a City of Pinole business license.
3. Consultant will comply with all applicable laws, rules & regulations including, but not limited to, the requirements of Labor Code §3800 regarding workers' compensation insurance and shall, prior to City's execution of a service contract, provide City with either a Certificate of Insurance documenting Consultant's workers' compensation insurance coverage from a company acceptable to City or a letter stating Consultant has no employees.
4. Consultant shall maintain a \$1,000,000 Commercial General Liability Insurance policy in place during the performance of the work and an Automobile Liability policy in place covering the vehicles used in the performance of the work per the agreement. Consultant shall provide City with a certificate of insurance documenting the CGL and Auto Insurance coverage from a company acceptable to City prior to City's execution of a service contract.

City as client

The proposing firm shall demonstrate, in both the proposal and through past practice, as verified through reference checks, a commitment to the City as a client, respecting the City's interests through listening and understanding of needs. The City and our Battalion 7 partners will provide information about the existing agencies and fire services system.

Acceptance of Terms

Submission of a proposal shall constitute acknowledgment and acceptance of all terms and conditions hereinafter set forth in the RFP unless otherwise expressly stated in the proposal.

Right of Rejection by the City

Notwithstanding any other provisions of this RFP, the City reserves the right to reject any and all proposals and to waive any informality in a proposal.

Financial Responsibility

The proposing firm understands and agrees that the City shall have no financial responsibility for any costs incurred by the proposing firm in responding to this RFP.

VII. NEGOTIATION AND AWARD

The selected firm shall be required to enter into a written contract with the City of Pinole, similar to the attached. Any requests for changes to the City standard contract shall be raised prior to selection. This RFP and the proposal, or any part thereof, may be incorporated into and made a part of the final contract; however, the City reserves the right to further negotiate the terms and conditions of the contract with the selected firm.

VIII ATTACHMENTS

City of Pinole Standard Consulting Contract – Short Form

AGREEMENT FOR SERVICES

This Agreement is made and entered into this ___ day of _____ 20__ by and between the **CITY OF PINOLE**, a municipal corporation, (hereinafter referred to as "CITY"), located at 2131 Pear St., Pinole, CA 94564-1774, and _____, a _____ corporation, located at _____ (hereinafter referred to as "CONSULTANT").

1. SCOPE OF SERVICES

INSERT SCOPE OF SERVICES (MARK AS EXHIBIT "A")

2. DELIVERABLES

CONSULTANT to provide written reports as follows:

INSERT DELIVERABLES (MARK AS EXHIBIT "B")

3. RESPONSIBLE PERSONNEL AND DIRECTION

_____ will be charged with the completion of CONSULTANT'S responsibilities under this Agreement. CONSULTANT shall report to and receive direction from _____.

4. COMPENSATION

CONSULTANT agrees to perform the Scope of Services delineated herein, and CITY agrees to make payments for work completed under the following terms:

1. **Fees and Invoices.** CONSULTANT fees shall not exceed \$_____. CONSULTANT shall submit invoices to CITY not more often than once per month during the term of this Agreement. Invoices shall contain: (i) the beginning and ending dates of the billing period; (ii) a description of the work performed during the billing period; and (iii) the total amount payable.
2. **Reimbursable Costs.** CITY agrees to pay only those reasonable reimbursable costs incurred in conjunction with this Agreement, without additional mark-up. CONSULTANT shall submit copies of receipts for reimbursement. CITY has sole discretion to determine which costs are reimbursable.
3. **Early Termination.** If CITY terminates this Agreement pursuant to Section 18 of this Agreement, CITY shall compensate CONSULTANT for work satisfactorily completed as of the date of written notice of termination and within 30 days of CITY'S receipt of CONSULTANT invoices in a form

satisfactory to CITY.

5. TERM OF AGREEMENT

Unless otherwise agreed to in writing, the term of this Agreement shall be from _____ through _____.

6. BUSINESS LICENSE

CONSULTANT shall obtain a City of Pinole business license according to the terms of Title 5 of the City of Pinole Municipal Code and deliver to CITY proof of such business license prior to beginning work under this Agreement. Work under this Agreement cannot begin until CITY receives proof that CONSULTANT has obtained a City of Pinole business license. If the CONSULTANT does not show satisfactory proof of having obtained a business license from CITY, CITY may deduct the business license fee from CONSULTANT'S invoice and issue a business license to CONSULTANT.

7. AMENDMENT

This Agreement may be amended, modified or changed by the parties provided that modification or change is in writing and approved by the authorized representatives of the parties.

8. OWNER OF DOCUMENT/PROPRIETARY INTEREST

It is agreed that CITY has a proprietary interest in all material prepared by CONSULTANT under this Agreement, with the exception of promotional materials, and may retain, alter or use as it sees fit all portions of the material prepared for the completion of the project.

9. SUBCONTRACTORS

CONSULTANT may utilize professional subcontractors only as approved by CITY.

10. ADDITIONAL SERVICES

In the event CITY desires to retain CONSULTANT for the performance of additional services in connection with this Agreement, specification of such additional services and compensation therefore shall be made only by amendment to this Agreement in accordance with compensation rates to be negotiated at that time.

11. INDEPENDENT CONTRACTOR

It is specifically understood and agreed that in the making and performance of this contract, CONSULTANT is an independent contractor and is not and shall not be an

employee, agent, or servant of CITY.

12. NONDISCRIMINATION

There shall be no discrimination against any employee who is employed in the work covered by this contract, or against any applicant for such employment because of age, race, religion, sex or national origin.

13. CONSULTANT CONFLICT OF INTEREST

CONSULTANT will comply with all conflict of interest laws and regulations including, without limitation, CITY'S Conflict of Interest Code (on file in the City Clerk's Office). It is incumbent upon CONSULTANT or CONSULTANT'S firm to notify CITY of any staff changes relating to this Agreement.

A. In accomplishing the scope of services of this Agreement, all officers, employees and/or agents of CONSULTANT(S), unless as indicated in Subsection B., will be performing a very limited and closely supervised function, and, therefore, are unlikely to have a conflict of interest arise. No disclosures are required for any officers, employees, and/or agents of CONSULTANT, except as indicated in Subsection B.

Initialed by City Attorney's Office

B. In accomplishing the scope of services of this Agreement, CONSULTANT(S) will be performing a specialized or general service for CITY, and there is substantial likelihood that CONSULTANT'S work product will be presented, either written or orally, for the purpose of influencing a governmental decision. As a result, the following CONSULTANT(S) shall be subject to the Disclosure Category "A-D" of CITY'S Conflict of Interest Code:

14. ASSIGNMENT

CONSULTANT shall not assign any interest in this contract, and shall not transfer any interest in the same without the prior written consent of CITY.

15. AGREEMENT BINDING

This Agreement is binding on the heirs, successors and assigns of the parties hereto.

16. APPLICABLE LAW AND ATTORNEY'S FEES

This Agreement shall be construed and enforced in accordance with the laws of the State of California. Should any legal action be brought by a party for breach of this Agreement or to enforce any provisions of this Agreement, the prevailing party in such action shall be entitled to reasonable attorney's fees, court costs or any other costs as may be fixed by the court. Any action arising out of this Agreement shall be venued in the Superior Court of the State of California in and for the County of Contra Costa.

17. SEVERABILITY

If any one of more of the covenants and agreements or portions thereof shall be held by a court of competent jurisdiction in a final judicial action to be void, voidable or unenforceable, such covenant, or covenants, such agreement or agreements, or such portions thereof shall be null and void and shall be deemed severable from the remaining covenants and agreements or portions thereof, and shall in no way affect the validity or enforceability of the remaining portions of this Agreement.

18. TERMINATION

- A. CITY may terminate this Agreement at any time, without cause, by giving CONSULTANT two (2) weeks (i.e., 14 days) written notice of discontinuance and termination of this Agreement. CONSULTANT shall be entitled to compensation for services satisfactorily rendered up to the written notice of termination of this Agreement. CITY may condition such payment upon CONSULTANT'S delivery of all material prepared by CONSULTANT under this Agreement.

- B. CITY may, at any time, at its discretion, abandon or suspend any portion of the work being done under the terms of this Agreement. In the event of abandonment or suspension of work for which professional services have been performed under this Agreement by CONSULTANT or in the event of the termination of this Agreement, CONSULTANT shall immediately stop work on the project required by this Agreement, or shall stop work at the stage directed by CITY.

19. INSURANCE AND INDEMNIFICATION

- A. **Insurance Requirements.** Before beginning any work under this Agreement, CONSULTANT, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by

CONSULTANT and its agents, representatives, employees, and subcontractors. CONSULTANT shall maintain the insurance policies required by this section throughout the term of this Agreement. CONSULTANT shall furnish CITY with complete copies of all insurance policies prior to execution of this Agreement and upon CITY'S request.

B. **Workers' Compensation.** CONSULTANT shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by CONSULTANT. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident. In the alternative, CONSULTANT may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code.

C. **Commercial General and Automobile Liability Insurance.**

1. **General Requirements.** CONSULTANT, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

2. **Minimum Scope of Coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 or GL 0002 (most recent editions) covering comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (most recent edition) Code 1. No endorsement shall be attached limiting the coverage.

D. **Professional Liability Insurance (Required for all license consultants).** CONSULTANT, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) covering the licensed professionals' errors and omissions. Any deductible or self-

insured retention shall not exceed \$150,000 per claim.

- E. **Additional Requirements.** Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:
1. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
 2. Any failure of CONSULTANT to comply with reporting provisions of the policy shall not affect coverage provided to CITY and its officers, employees, agents, and volunteers.
- F. **Notice of Reduction in or Cancellation of Coverage.** A certified endorsement shall be attached to all insurance obtained pursuant to this Agreement stating that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to CITY.
- G. **Additional Insured; Primary Insurance.** A certified endorsement at least as broad as Insurance Services Office form number CG 20 10 (11/85 ed.) shall be attached to all policies stating that CITY and its officers, employees, agents, and volunteers shall be covered as additional insureds. A certified endorsement shall be attached to all policies stating that coverage is primary insurance with respect to CITY and its officers, officials, employees and volunteers, and that no insurance or self-insurance maintained by CITY shall be called upon to contribute to a loss under the coverage.
- H. **Variation.** CITY may approve a variation in the foregoing insurance requirements, upon a determination that the coverage, scope, limits, and forms of such insurance are either not commercially available, or that CITY'S interests are otherwise fully protected.
- I. **Indemnification.**

[GENERAL INDEMNIFICATION CLAUSE TO BE USED FOR MOST AGREEMENTS. SEE BELOW FOR EXCEPTIONS.]

CONSULTANT shall, to the fullest extent allowed by law, indemnify, defend with counsel reasonably acceptable to the CITY, and hold harmless CITY and its officials, officers, employees, agents, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful

misconduct or negligent acts or omissions of CONSULTANT or its employees, subcontractors, or agents, by acts for which they could be held strictly liable, or by the quality or character of their work.

[WHEN CONTRACTING WITH THE FOLLOWING DESIGN PROFESSIONALS, (1) LICENSED ARCHITECTS; (2) LICENSED ENGINEERS; (3) LICENSE LANDSCAPE ARCHITECTS, AND/OR (4) LICENSE LAND SURVEYORS, USE THE FOLLOWING INDEMNIFICATION CLAUSE:]

CONSULTANT shall, to the fullest extent allowed by law, with respect to all services performed in connection with this Agreement, defend with counsel acceptable to CITY, indemnify, and hold CITY, its officers, employees, agents, and volunteers, harmless from and against any and all claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT, (“Claims”). CONSULTANT will bear all losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such Claims, whether directly or indirectly (“Liability”). Such obligations to defend, hold harmless and indemnify CITY shall not apply to the extent that such Liability is caused by the sole negligence, active negligence, or willful misconduct of CITY.

With respect to third party claims against CONSULTANT, CONSULTANT waives any and all rights of any type of express or implied indemnity against the Indemnitees.

However, notwithstanding the foregoing, in accordance with California Civil Code Section 1668, nothing in this Agreement shall be construed to exempt CITY from its own fraud, willful injury to the person or property of another, or violation of law. In addition, and notwithstanding the foregoing, to the extent this Agreement is a “construction contract” as defined by California Civil Code section 2783, as may be amended from time to time, such duties of CONSULTANT to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

20. NOTICES

All correspondences shall be sent by first-class mail and directed to the party at the addresses specified below, or to a substitute address as a party may designate by written notice to the other party:

CONSULTANT:

Attention: _____

CITY:

City of Pinole
2131 Pear Street
Pinole, CA 94564

Attention: _____

with a copy to:

City Attorney
2131 Pear Street
Pinole, CA 94564

21. MISCELLANEOUS PROVISIONS

- A. Neither party shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents or other events or conditions beyond the party's control.
- B. In the event any provisions of this agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provisions, term, condition, or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.
- C. This agreement constitutes the entire agreement between the parties and there are no conditions, agreements or representations between the parties except as expressed in said document. It is not the intent of the parties to this agreement to form a partnership or joint venture.
- D. Where the terms and conditions of this Agreement and any attachments or exhibits hereto conflict, the parties expressly agree that the terms and conditions of this Agreement shall prevail and preside.
- E. The Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from the City of Pinole.
- F. Preparation and negotiation of this Agreement has been a joint effort of the parties and neither the Agreement nor any of its provisions shall be construed against either of the parties as the drafting party or otherwise

22. ATTACHMENTS

Exhibit A - SCOPE OF SERVICES

Exhibit ____

Exhibit ____

Certificate of Insurance

IN WITNESS WHEREOF, CITY AND CONSULTANT have caused their authorized representatives to execute this Agreement.

**CITY
OF PINOLE**

CONSULTANT

By: _____

By: _____

Belinda Espinosa
City Manager

Printed Name:
Title:

2131 Pear St.
Pinole, CA 94564
(510) 724-9000

Consultant's City of Pinole Business
License #: _____

ATTEST:

APPROVED AS TO FORM:

By: _____
City Clerk

By: _____
Benjamin T. Reyes, II
City Attorney